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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

(SAN JOSE DIVISION)

ACACIA MEDIA TECHNOLOGIES CORPORATION, Plaintiff, v. NEW DESTINY INTERNET GROUP, et al., Defendants.	Case No. C 05-01114 JW (HRL) **DECLARATION OF TODD G. MILLER IN SUPPORT OF DEFENDANTS' OPPOSITION TO ACACIA'S MOTION FOR RECONSIDERATION AND CLARIFICATION OF THE JULY 12, 2004 MARKMAN ORDER** Date: September 8 and 9, 2005 Time: 9:00 a.m. – 4:00 p.m. Judge: Honorable James Ware Courtroom 8, 4th floor
AND ALL RELATED AND/OR CONSOLIDATED CASE ACTIONS	

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I Todd G. Miller, do hereby declare and state as follows.

1. I am a principal in he law firm of Fish & Richardson P.C., counsel of record for Defendants and Counterclaimants Ademia Multimedia, LLC, AEBN, Inc.; Audio Communications, Inc.; Club Jenna, Inc.; Cyber Trend, Inc.; Cybernet Ventures, Inc.; ACMP, LLC; Game Link, Inc.; Global AVS, Inc.; Innovative Ideas International; Lightspeed Media Group, Inc.; National A-1 Advertising, Inc.; New Destiny Internet Group, LLC; and VS Media, Inc. ("Defendants").

2. I make this Declaration in support of Defendants' opposition to Acacia's motion for reconsideration and clarification of the July 12, 2004 Markman Order. I make this Declaration of my own knowledge, and could and would competently testify as to the matters set forth herein if called upon to do so.

3. Attached to this Declaration as Exhibit A is a true and correct copy of an excerpt from the Declaration of Todd G. Miller in Support of Defendants' Responsive Claim Construction Brief Regarding United States Patent No. 6,144,702. The Except contains pages 38 and 39 of Acacia's interrogatory response identified as Ex. PP, pages 452-453. This excerpt reflects Acacia's initial construction of the "sequence encoder" limitation.

4. Attached to this Declaration as Exhibit B is a true and correct copy of an excerpt from Acacia's Claim Construction Brief Re: Claims Terms in the '702 Patent.

5. Attached to this Declaration as Exhibit C s a true and correct copy of an excerpt from Acacia's Opposition to Defendants' Claim Construction Brief Re: Claims Terms in the '702 Patent.

6. Attached to this Declaration as Exhibit D is a true and correct copy of an excerpt from the Joint Claim Construction Chart for Claim Terms in the '992 and '702 Patents.

7. Attached to this Declaration as Exhibit E is a true and correct copy of an excerpt from Acacia's Supplemental Brief Re Claim Construction.

8. Attached to this Declaration as Exhibit F is a true and correct copy of Acacia's Supplemental Brief Re "Identification Encoding Means."

9. Attached to this Declaration as Exhibit G is a true and correct copy of the Westlaw version of the opinion in *Phillips v. AWH Corp.*, 415 F.3d 1303, 2005 WL 1620331.

10. Attached to this Declaration as Exhibit H is a true and correct copy of the Westlaw version of the opinion in *Terlep v. The Brinkmann Corp.*, __ F.3d __, 2005 WL 1950186 (Fed. Cir. 2005).

11. Attached to this Declaration as Exhibit I is a true and correct copy of the Westlaw version of the opinion in *Harris Corp. v. Ericsson, Inc.*, __ F.3d __, 2005 WL 1845103 (Fed. Cir. 2005).

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed this 25th day of August, 2005.

/s/

Todd G. Miller